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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 10847/2024 & CM APPL. 44654/2024 (Stay)

JASVINDER KAUR .....Petitioner

Through: Mr. Amol Sinha, Mr. Kshitiz Garg & Mr. Sourav Verma, Advs.

versus

INCOME TAX OFFICER, WARD-49(1), NEW DELHI & ANR. .....Respondents

Through: Mr. Siddharth Sinha, SSC.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

O R D E R

% **28.08.2024**

1. Having heard learned counsels for parties, we had on the previous occasion, namely, 06 August 2024 passed the following order:-

> "3. The present petition impugns the reassessment action pertaining to Assessment Year ["**AY**"] 2017-18.
>
> 4. Undisputedly, the petitioner had not filed a Return of Income for the year in question. There were two transactions pertaining to the purchase and sale of immovable property which were however identified by the respondents.
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> 5. While one transaction was for an amount of INR 49,90,000/-, the second was in respect of an immovable property, the transaction in that respect being of INR 94,00,000/-.
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> 6. Although the petitioner had acknowledged the purchase of immovable property for a consideration of Rs.49,90,000/-, the allegation in respect of the transaction of Rs.94,00,000/- was disavowed.
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> 7. The order issued under Section 148A(d) of the Income Tax Act, 1961 ["**Act**"], noticed that although information had been called for from the office of the Sub-Registrar, the respondents

> were apprised that no such information was available in its office. The Sub-Registrar has essentially apprised the respondents that no sale or purchase connected to the PAN of the petitioner could be found.
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> 8. In view of the aforesaid and prima facie, we find ourselves unable to sustain the reassessment action, at least and in so far as it pertains to the transaction of immovable property pegged at INR 94,00,000/-.
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> 9. We, consequently, allow the respondent to obtain appropriate instructions.
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> 10. We also reserve liberty to learned counsel for the petitioner to address further submissions on merits on the next occasion.
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> 11. Let the matter be called again on 28.08.2024."

2. Learned counsel appearing for the respondents however draws our attention to the impugned order passed under Section 148 A(d) of Income Tax Act, 1961 [**"Act"**] dated 31 March 2024 and which clearly appears to indicate that it was only the allegation with respect to the sale of immovable property amounting to INR 49,90,000/- which was ultimately taken into consideration.

3. This we note from the following extract of the Section 148 A(d) order which is reproduced hereinbelow:-

> "The reply of the assessee is considered and it is stated that the claim of the assessee regarding income escaping assessment is untenable as the total sale consideration (Income) of the property is 49,90,000. Regarding purchase of another property of Rs 94,00,000 the office of sub-registrar Punjabi bagh has stated that they have no such information. The assessee has not come up with any explanation for not declaring the transaction and capital gain/income arising out of such transactions and interest income received during the year under consideration. This shows that the assessee has nothing to say or submit in this regard. <u>The sale of immovable property by the assessee of Rs. 49,90,000/- and received interest income of Rs. 65,814/- (8100 + 22236 + 35478) are duly covered in the definition of asset as per explanation of clause (b) of section 149 (1) and hence income chargeable to tax at Rs. 50,55,814/- which has escaped assessment amounts to or is likely to be more than fifty lakh rupee for the year under consideration</u>.
>
> 7. <u>Therefore, based on the above observations which originate from</u>

> the material/information available on record, it is indicated that income chargeable to tax at Rs. 50,55,814/- represented in the form of "Assets" (Credits in Bank Account), which is likely to amount to fifty lakh rupees or more has escaped assessment for the assessment year under consideration.
>
> 8. Accordingly, it is concluded vide this order under clause (d) of section 148A of the Income Tax Act, 1961 that this is a FIT case for issuance of notice u/s 148 for the year under consideration where income chargeable to tax has escaped assessment."

4. It is on the aforesaid basis that the Assessing Officer [**"AO"**] has taken the view that the sale consideration of INR 49,90,000/- alongwith interest income would be in excess of INR 50,00,000/- thus justifying the invocation of action for reassessment as well as qualifying the criteria envisaged under Section 148 of the Act.

5. In view of the nature of issues which stand raised and which would necessarily entail us delving into facts which are yet to be examined by the AO coupled with the fact that the petitioner was admittedly a non-filer for Assessment Year [**"AY"**] 2017-2018, we find no justification to interdict the reassessment action at this stage.

6. We accordingly refuse to interfere with the impugned orders at this stage and dispose of this writ petition with liberty reserved to the writ petitioner to take part in the reassessment proceedings.

7. All rights and contentions shall be open to be addressed in those proceedings.

YASHWANT VARMA, J

RAVINDER DUDEJA, J

AUGUST 28, 2024
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